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Letter dated 30 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from the Bolivarian Republic of Venezuela submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Spanish]

Note verbale dated 28 June 2006 from the Permanent Mission of the Bolivarian Republic of Venezuela to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Bolivarian Republic of Venezuela to the United Nations presents its compliments to the Committee and takes this opportunity to submit, attached hereto, the response of the Venezuelan Government to the request contained in the note of 29 July 2005 for further information on various aspects of Venezuela's implementation measures (see enclosure), together with a diskette containing the electronic version of this additional information.

Enclosure

Replies of the Bolivarian Republic of Venezuela to note S/AC.40/2005/MS/OC.502 of 29 July 2005 from the Counter-Terrorism Committee of the United Nations Security Council

1. Implementation measures

1.1 The Committee notes that Venezuela has a number of new pieces of legislation at the drafting stage which are intended to implement aspects of the resolution. Given the urgency of the need to fully implement the resolution, the Committee considers the passage of such legislation a priority.

The draft Act on Counter-Terrorism and the draft Special Law against Terrorist Acts were adopted at first reading by the National Assembly.

Legislative measures on this issue in Venezuela include the Organic Act against Organized Crime, recently promulgated and published in Special Official Gazette No. 5,789 of 26 October 2005. This legal instrument classifies crimes linked to terrorist acts, provides for the prevention, investigation, prosecution, classification and punishment of acts related to organized crime, pursuant to the Constitution and relevant international treaties signed and ratified by Venezuela, and, depending on the nature of the offence, establishes the relevant aggravating circumstances. The Act allows the State, through its judicial bodies, to take the necessary action to punish any act whose purpose is to subvert the constitutional order and the democratic institutions or to seriously impair public peace.

The Act also classifies arms trafficking as a crime against public order and, in this regard, is complemented by the relevant provisions of the Disarmament Act, which was published in Official Gazette No. 37,509 of 20 August 2002, and the Arms and Explosives Act. The National Assembly has passed the following acts adopting conventions signed by the Bolivarian Republic of Venezuela: the Act adopting the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (Official Gazette No. 37,217 of 12 June 2001); the Act adopting the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Official Gazette No. 38,092 of 22 December 2004); and the Act adopting the Inter-American Convention on Transparency in Conventional Weapons Acquisitions (Special Official Gazette No. 5,754 of 3 January 2005).

The Organic Act against Organized Crime, mentioned above, stipulates not only that the crime of legitimization of capital (money-laundering) is now considered an autonomous offence (it was previously considered a crime only if linked to drug trafficking), but also that the financing of terrorism is considered a crime against public order (art. 7), incurring a penalty of imprisonment for a term of 10 to 15 years, which may be increased to 18 to 20 years when the crime established in the said article is committed with the following aggravating circumstances (art. 8):

- Using insidious weapons or using civilian or military uniforms as a disguise;

- Using chemical or biological substances capable of causing physical harm, or using information technology tools that may affect the information systems of State institutions;
- Against children or adolescents;
- Using nuclear, biological, bacteriological or similar weapons;
- Against ships, boats, aircraft or motor vehicles used for public transport;
- Against hospitals, care centres, or any office of a public service or State agency;
- Against the person of the President of the Republic or the Executive Vice-President, ministers, justices of the Supreme Court of Justice, deputies in the National Assembly, the Prosecutor General, the Comptroller General, the Attorney General, the Ombudsman, the heads of the National Electoral Council or the Military High Command;
- Against the members of the diplomatic corps accredited in the country, their offices or representatives, or the representatives of international organizations.

1.2 **The Committee regards the criminalization of terrorist acts and their financing, and the effectiveness in the protection of the financial system from being used by terrorists, as areas of priority for all States in implementing the resolution. From the information provided so far to the Committee, it appears that Venezuela does not have domestic legislation to specifically:**

- **Criminalize the financing and other forms of support of terrorism, except where such support is provided through aiding and abetting a criminal act;**
- **Make funds that are derived from legitimate sources used or to be used in the furtherance of terrorist activities subject to the freezing authority;**
- **Authorize the freezing of funds "without delay", pursuant to paragraph 1 (c) of the resolution;**
- **Regulate charitable and other non-profit organizations;**
- **Implement in domestic law the provisions of the international counter-terrorism conventions and protocols of which Venezuela is a party, including the International Convention for the Suppression of the Financing of Terrorism (1999).**

In light of the above observations, the Committee would be grateful to receive an update of the status of the proposed legislative actions contemplated by Venezuela, including the amendments to the Penal Code to fully implement all of the international anti-terrorism conventions and the proposed draft Special Law against Terrorist Acts.

The Committee would also appreciate it if Venezuela would explain how the contemplated amendments referred to above (or, if they are already enacted, the new laws and regulations) address each of the above issues specifically, including an outline of the relevant provisions which give effect to the provisions of the 11 counter-terrorism instruments to which Venezuela is already a party.

Articles 128, 140 and 180A of the Penal Code Partial Amendment Act, published in Official Gazette No. 38,148 of 16 March 2005 and Special Official Gazette No. 5,763, reflect Venezuela's commitment to prevent and suppress the financing of terrorist acts, establishing penalties for such conduct, as set out below.

Article 128. Any person who, in collaboration with a foreign country or republic, external enemies or terrorist, paramilitary, insurgent or subversive groups or associations, conspires to undermine the integrity of the territory of Venezuela or its national institutions or commits a hostile act against them using any means for these purposes shall be punished by imprisonment for a term of 20 to 30 years.

Single paragraph. Any person who is involved in any of the above acts shall not be entitled to legal procedural benefits or to alternative means of serving their sentence.

Article 140. Any Venezuelan or foreign national resident in Venezuela who directly or indirectly assists a foreign country or republic or terrorist, paramilitary, insurgent or subversive groups or associations, provides them with safe haven or shelter or delivers to or receives from them sums of money, food supplies or any kind of logistical support, or war supplies or technological devices that could be used to harm the Bolivarian Republic of Venezuela, the integrity of its territory, its national institutions or its citizens, or who destabilizes the social order shall be punished by imprisonment for a term of 10 to 15 years.

Article 180A. Any public authority, whether civil or military, or any person in the service of the State that illegally deprives a person of his or her freedom and refuses to admit to the detention or to provide information on the fate or the whereabouts of the disappeared person, preventing the exercise of his or her constitutional and legal rights and guarantees, shall be punished by imprisonment for a term of 15 to 25 years. Members of terrorist, insurgent or subversive groups or associations who, acting as members or collaborators of such groups or associations, cause a person to disappear by force, through kidnapping or abduction, shall receive the same penalty. Any person acting as an accomplice or an accessory after the fact to such an offence shall be punished by imprisonment for a term of 12 to 18 years.

By means of these provisions in the amended Penal Code, the Venezuelan State unequivocally condemns all terrorist acts, methods and practices as crimes and has established extremely long prison sentences.

Likewise, article 7 and article 60, paragraph 3, of the Organic Act against Organized Crime stipulate the following:

Article 7. Any person who is a member of or acts or collaborates with armed gangs or organized crime groups in order to cause havoc, destruction or fire, or to detonate mines, bombs or other explosive devices, or to subvert the constitutional order and the democratic institutions, or to seriously impair public peace, shall be punished by imprisonment for a term of 10 to 15 years.

Article 60. Communication and information exchange with the governmental institutions of other countries for the purpose of investigating and prosecuting persons involved in organized crime shall relate to the following: (...)

Paragraph 3. Information on trafficking in persons, arms and drugs, money-laundering and terrorism, and also on the concealment of goods at customs and any other illicit activity connected with organized crime.

With regard to the Committee's comment that Venezuela does not have legislation to specifically "make funds that are derived from legitimate sources used or to be used in the furtherance of terrorist activities subject to the freezing authority" or to "authorize the freezing of such funds without delay", we wish to point out that Venezuela does have such legislation: the Organic Act against Organized Crime of 26 October 2005, which defines a number of offences that may be considered terrorist offences and establishes penalties for them.

The activities of the Counter-Terrorism Directorate of the Scientific, Criminal and Forensic Investigation Force (CICPC) are guided by the parameters established in the Act, article 21 of which provides for the freezing or preventive immobilization of bank accounts belonging to any member of an organization under investigation, following a request by the Public Prosecutor's Office, and the "preventive closure" of any type of premises belonging to the organization. In addition, article 26 establishes criminal liability for offences related to organized crime committed on behalf of juridical persons or by their governing bodies or representatives, including charitable and other non-profit organizations, such as NGOs.

Under article 218 of the Organic Code of Criminal Procedure, the Public Prosecutor's Office may, with the authorization of a judge, order the seizure of documents, certificates, securities and sums of money held in bank accounts or safe deposit boxes or by third parties, when there are reasonable grounds for believing that they are connected with a criminal act.

In this regard, under article 235, paragraph 16, of the Decree-Law amending the General Act on Banks and Other Financial Institutions, which was published in Special Official Gazette No. 5,555 of 13 November 2001, the Office of the Superintendent of Banks and Other Financial Institutions (SUDEBAN) may request the competent authorities, pursuant to constitutional and legal provisions, to determine preventive measures to immobilize any type of account, loan or financial transaction.

Article 27 of the Organic Act against Organized Crime establishes the penalties that a judge may impose, while articles 47 and 51 stipulate the obligations of those to whom the Act applies: they must keep records, be aware of and monitor transactions and their purpose and destination, and report suspicious transactions; moreover, they may not invoke banking secrecy or other regulations in force concerning business confidentiality or privacy and freedom, with the intention or purpose of avoiding civil or criminal liability.

These legal provisions were established in order to criminalize cooperation in and the financing of terrorist acts and to recognize the connection that sometimes exists between international terrorism and transnational organized crime, bearing in mind at all times that they are two distinct phenomena.

We should point out that the Bolivarian Republic of Venezuela has established a post of single authority on terrorism, which is held by the Deputy Minister for Civil Security of the Ministry of the Interior and Justice, who is responsible for compliance with the State's international commitments in this regard. Moreover, the National Assembly, through its Committee on Domestic Policy, Justice, Human Rights and Constitutional Guarantees, has organized round tables to discuss the draft Special Law against Terrorist Acts, which was adopted at first reading.

These legal provisions demonstrate that the Venezuelan State is acting not only on its concern about the proliferation of extremist activities throughout the world, but also in line with its declaration that such acts constitute one of the most serious threats to international security in the twenty-first century, thereby reaffirming its condemnation of all terrorist methods and practices.

1.3 Based on information provided thus far, Venezuela has not yet become a party to the following Conventions and Protocols:

- **Convention on the Physical Protection of Nuclear Material;**
- **Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;**
- **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;**
- **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf;**
- **Convention on the Marking of Plastic Explosives for the Purpose of Detection.**

In that regard, the Committee would appreciate it if Venezuela would provide it with information on its plans to become a party to these conventions.

Venezuela is currently examining and assessing these pending conventions. The Office of the Legal Adviser of the Ministry of Foreign Affairs has asked the organizations concerned with these issues to provide it with their technical opinion in order to decide whether it is appropriate to sign the conventions.

Specifically, with regard to the Convention on the Physical Protection of Nuclear Material and the country's other commitments relating to technological and physical security in the nuclear sphere, the Bolivarian Republic of Venezuela has been making strenuous efforts to strengthen its national regulatory authority and is working on the national legal framework that supports the authority's structure and functions and on national practice, by elaborating the preliminary draft of the atomic energy act and its regulations.

We should also emphasize that Venezuela has declared its national commitment to endorse and adopt the Code of Conduct on the Safety and Security of Radioactive Sources and, fulfilling an important requirement of the Code, has appointed the Director-General for Atomic Energy of the Ministry of Energy and Petroleum to the post of national focal point for all matters related to the import and export of relevant radioactive sources. It is also reviewing the International Atomic Energy Agency (IAEA) document entitled "Guidance on the Import and Export of Radioactive Sources", which relates to the requirements for importing and exporting radioactive materials, in accordance with the guidelines set out in the instrument.

In keeping with the State's policy and guidelines for strengthening the regulatory authority, the General Directorate for Atomic Energy of the Ministry of Energy and Petroleum, as the regulatory authority, is implementing a project on effective monitoring and control in installations that use radioactive materials, to which the sum of US$ 463,609 has been allocated for 2006. The project is based on a national inspection programme covering high-risk installations to verify that they are complying with physical and radiological safety measures for material in such

installations. The project is already under way; another of its objectives is the preparation of a physical inventory of radioactive sources, both in use and not in use, at all the installations in the country, so as to update the IAEA Regulatory Authority Information System.

A fundamental element of the implementation of the programme to strengthen the regulatory authority is the training of a group of professionals from the Ministry of Energy and Petroleum and from monitoring and support institutions, such as Civil Defence, the National Integrated Customs and Tax Administration Service (SENIAT), the National Guard, the Fire Department and the National Institute of Land Transport and Transit — with a special emphasis on the new professionals entering the General Directorate for Atomic Energy — on topics related to monitoring and control, sources of ionizing radiation and radiation-generating equipment, radiological protection, transport, customs and border control, waste management, etc. To this end, an ambitious training plan has been developed under project RLA/9/050 — "Strengthening National Regulatory Infrastructure for the Control of Radiation Sources" — which Venezuela is implementing with the assistance of IAEA.

In addition, the General Directorate for Atomic Energy of the Ministry of Energy and Petroleum is developing the National Plan for Response to Radiological Emergencies, in coordination with all the national bodies concerned, including Civil Defence, the Ministry of Health, the Venezuelan Institute for Scientific Research, the Fire Department, the National Guard, the Public Prosecutor's Office, and State security agencies. In this regard, the Ministry of Energy and Petroleum is developing a project for implementation of the National Plan, with a budget of US$ 407,461 for 2006.

To harmonize the national legal framework with international standards, the Code of Conduct on the Safety and Security of Radioactive Sources and other international instruments, efforts are being made, in the context of the planning programme, to review and enhance various instruments (the Hazardous Substances, Materials and Waste Act and the Regulations on Radiological Protection, Authorization and Control of Medical Practices, Radioactive Waste Management and Transport Security). In addition, the Venezuela Technical Standards Commission (COVENIN) has issued several standards based on the IAEA International Basic Safety Standards.

To optimize customs control of radioactive material at the country's borders, and within the framework of the project to strengthen the regulatory authority, the General Directorate for Atomic Energy of the Ministry of Energy and Petroleum, together with SENIAT authorities and the National Guard, has been fostering the improvement of systems to control imports and exports of radioactive sources and radiation-generating equipment, by means of a two-way exchange of information between SENIAT and the General Directorate for Atomic Energy for validation of the import and export licences issued by the Directorate, with a view to obtaining information promptly when goods clear customs.

Since it is in the national interest to develop a programme for the safe management of radioactive waste, the General Directorate for Atomic Energy submitted the National Radioactive Waste Management Programme to the Venezuelan Government. The Programme was approved and allocated a budget of US$ 115,530 for 2006.

With regard to the protection of the population and the environment, the General Directorate for Atomic Energy is implementing the National Radiological Monitoring Programme, which has been approved by the national executive branch and allocated a budget of US$ 192,318 for 2006.

1.4 Venezuela indicated in its third report (at page 6) that the Organic Law on Narcotic Drugs and Psychotropic Substances calls upon the Ministry of the Interior and Justice to create a Judicial Police Corps in order to facilitate information exchange regarding suspicious behaviour.

– Has the aforementioned Corps been created?

– Will the financing of terrorism be included in the mandate of the Corps?

It should be emphasized that the legal instrument ordering the creation of a judicial police corps is the Constitution of the Bolivarian Republic of Venezuela, article 332, paragraph 2, of which empowers the national executive branch to set up a corps, now known as the Scientific, Criminal and Forensic Investigation Force (CICPC).

The Organic Act Against Illicit Trafficking in and Use of Narcotic Drugs and Psychotropic Substances, reprinted in Official Gazette No. 38,337 of 16 December 2005, does not call upon the Ministry of the Interior and Justice to create a judicial police corps in order to facilitate information exchange regarding suspicious behaviour. The final paragraph of article 211 provides for the establishment of a confidential data system within the competent general division of the judicial police, in this case CICPC. In this regard, the organizational structure of CICPC includes an Anti-Drug Directorate and a Terrorism Investigation Directorate, which is responsible for the suppression of the financing of terrorism.

The Organic Act does not specifically refer to terrorism or the financing of terrorism as autonomous offences. It places the offences of illicit trafficking in narcotic drugs and associated money-laundering in the category of organized crime offences. Money-laundering is considered a serious, autonomous offence if the illicit origin of the money is proved; therefore, a prior judicial declaration is no longer required.

It should be noted that the establishment of the National Anti-Drug Office (ONA) was announced in the Official Gazette of 23 January 2006.

1.5 In its second report to the Committee (at page 7), Venezuela indicated that it did not have preventive controls to ensure funds intended for terrorism were not channelled through charitable, religious or cultural organizations. However, in its third report to the Committee, Venezuela indicated that the Act against Organized Crime would introduce legislation governing activities of an economic nature. The Committee should appreciate it if Venezuela would elaborate on its intentions to regulate charitable, religious or cultural organizations with a view to prevent those entities from being used to support terrorism.

Article 45 of the Act against Organized Crime establishes that the control, supervision, monitoring and oversight agencies that regulate activities of an economic nature carried out by the relevant entities include the following:

1. SUDEBAN;

2. The Office of the Superintendent of Insurance;

3. The Central Bank of Venezuela;

4. The National Securities Commission;

5. The Ministry of the Interior and Justice, through its competent bodies;

6. SENIAT;

7. The Ministry of Energy and Petroleum, through its competent bodies;

8. The Ministry of Finance, through its competent bodies;

9. The National Commission on Casinos, Bingo Halls and Slot Machines.

In addition, article 43, paragraph 5, stipulates that foundations, civil associations and other non-profit organizations are entities that are obliged to report their activities because their purposes are social and financial in nature. Failure to comply with this provision entails fines of up to 3,000 tax units. These entities are also subject to supervision, regulation and the imposition of administrative penalties by the control, supervision, monitoring and oversight agencies designated in the Act (in this case, solely the Justice and Religion Directorate of the Ministry of the Interior and Justice), as well as by the relevant decentralized body, which is being established by the Ministry of the Interior and Justice.

Furthermore, under article 236 of the aforementioned Decree-Law amending the General Act on Banks and Other Financial Institutions, SUDEBAN issued circular No. SBIF-UNIF-DIF-03759 of 9 April 2003, informing the national banking system of the use of charitable, religious and cultural organizations in financial transactions linked to terrorist activities, among other matters. Instructions have also been issued on the norms that should be implemented by the financial institutions and other enterprises supervised by SUDEBAN for the purpose of recognizing and detecting the techniques and mechanisms used in the financing of terrorism.

1.6 Venezuela indicated in its second report (at page 8) that the Arms and Explosives Act of 1939 provides penalties for the illegal acquisition, possession, import and export of weapons, ammunition, and explosives. The Committee would appreciate it if Venezuela would outline any existing measures, both legislative and practical, with regard to enforcement of the aforementioned Act.

It should be pointed out that, as stated in the official record of National Assembly debates, the new draft Arms and Ammunition Act, which will replace the Arms and Explosives Act published in Official Gazettes Nos. 19,900 and 20,107, of 12 and 13 June 1939 respectively, was adopted at first reading. Consequently, the Minister of Defence, in Ministerial Resolution DG-034773 of 2 February 2005, appointed a committee to review the draft Arms and Ammunition Act. The Armaments Directorate of the National Armed Forces (DARFA) began the study, analysis and review of the draft act on 11 February 2005.

Nonetheless, it should be noted that, in all the pertinent international forums in which it is represented, the Venezuelan State has placed particular emphasis on the need to differentiate clearly between the phenomena of terrorism, illicit arms trafficking and transnational organized crime, which are connected only in certain cases, since each has a distinct character. In this regard, a clearer relationship can probably be identified in the case of explosives.

The Penal Code Partial Amendment Act, published in Special Official Gazette No. 5,494 of 20 October 2000, establishes the following provisions against the illegal acquisition, possession, import and export of arms, ammunition and explosives:

Article 273. The import and manufacture of, trading in and carrying of weapons in violation of the provisions of this Code and of the Arms and Explosives Act shall be considered crimes and shall be punished in accordance with the relevant articles in this chapter.

If such a crime is committed by a police officer, customs officer, public official, legally authorized private security guard or public employee, this fact shall be considered an aggravating circumstance and, in such cases, the penalty shall be increased by up to one third of the average sentence.

Article 275. Trade in and the import, manufacture, carrying, possession, supply and concealment of weapons classified as war weapons under the Arms and Explosives Act and other relevant legal provisions shall be punishable by imprisonment for a term of five to eight years.

Article 277. Trade in and the import, manufacture and supply of other weapons that are not war weapons but in respect of which these operations are prohibited by the Arms and Explosives Act shall be punishable by imprisonment for a term of five to eight years.

Article 278. The carrying, possession or concealment of the weapons referred to in the preceding article shall be punishable by imprisonment for a term of three to five years.

Article 280. Soldiers on duty, police officers, customs officers and public officials or employees who are authorized to possess or carry arms by the laws or regulations governing the exercise of their functions shall not be considered to be committing the crimes established in articles 278 and 279; nor shall they incur the penalties established therein.

Article 282. The persons referred to in articles 280 and 281 may use the weapons they carry only in legitimate defence or in defence of public order. If they misuse said weapons, they shall be subject to the penalties imposed by articles 278 and 279, increased by one third, where appropriate, in addition to the relevant penalties for the offence which they have committed by using the weapons.

In addition, the Disarmament Act was published in Official Gazette No. 37,509 of 20 August 2002. Its purpose is the disarming of any person who illegally carries, owns or conceals firearms, in order to safeguard the peace, coexistence and safety of citizens and institutions, as well as the physical integrity of people and property (art. 1).

The National Armed Forces are responsible for regulating and controlling disarmament with regard to illegal firearms; to this end, they may request the collaboration of civil security agencies and state and municipal police (art. 2).

The Act establishes that illegal firearms are those that are not registered with DARFA (art. 3).

DARFA is the competent entity for granting permits for the carrying and ownership of firearms (art. 4).

Furthermore, the Act stipulates that all illegal firearms must be withdrawn and sent to DARFA, which should, in cases where the carrying of firearms is prohibited, impose the relevant fine for non-compliance with the aforementioned conditions, among others.

The Act also provides that any person who trades in or delivers to another person or conceals an illegal firearm shall be punished, as provided for in Title V of Book Two of the Penal Code (art. 13).

All the articles of the aforementioned Act are designed to achieve its principal purpose and, to that end, they establish fines for illicit activities and refer to the Penal Code for the relevant penalties.

The issue of illicit trafficking in firearms is also refereed to in the Organic Act against Organized Crime, specifically in article 9 and article 16, paragraph 2, as follows:

Article 9. Any person who improperly imports, exports, manufactures, traffics in, supplies or conceals any weapon or explosive shall be punished by imprisonment for a term of five to eight years. In the case of war weapons, the penalty shall be imprisonment for a term of six to ten years.

Article 16. In addition to the offences defined in this Act, the following shall be considered organized crime offences under the relevant legislation, when they are committed by organized criminal groups:

- Illicit trafficking and trade in and the sale, production, manufacture, refining, transformation, preparation, possession, supply, storage and transport of narcotic drugs or psychotropic substances, as well as the raw materials, ingredients, essential chemicals, solvents, precursors or other substances that are diverted and used to produce narcotic drugs or psychotropic substances;
- The illicit import, export and manufacture of and trade in weapons and explosives;
- Fraud and fraudulent practices;
- Banking and financial crimes;
- Robbery and theft;
- Corruption and other crimes against the public interest;
- Environmental crimes;
- Theft or robbery of or illicit trafficking in motor vehicles, ships, aircraft, boats or trains of any type, or their components or parts;
- Smuggling and other customs- and tax-related crimes;
- The counterfeiting of currency or public credit instruments;
- Trafficking in persons or migrants;
- Illegal deprivation of individual liberty or abduction;
- Extortion.

Paragraph 2. The penalty for illegal deprivation of liberty shall be imprisonment for a term of 10 to 15 years and, for abduction, imprisonment for a term of 10 to 18 years, where the crimes defined in this article are committed

- Against children or adolescents or persons over 70 years of age;
- By an armed group or a group using uniforms or symbols of authority;
- Using torture or other forms of violence;
- Through the exploitation of a relationship of trust or employment;
- In border security areas or special areas provided for in the Organic Act on Security and Defence, or within the special jurisdiction established by that Act, or in a deserted area;
- For terrorist purposes or with transfer of the victim to a foreign country;
- Against the President of the Republic, the Executive Vice-President, ministers, members of the Council of State, justices of the Supreme Court of Justice, deputies in the National Assembly, the Prosecutor General, the Comptroller General or the Attorney General, the Ombudsman, the heads of the National Electoral Council, governors, mayors, members of the Military High Command and members of the diplomatic and consular corps or of international organizations.

1.7 **In the second report (at page 15), Venezuela indicated that Article 271 of the Constitution provides for the extradition of aliens suspected of money-laundering, drugs, organized international crime and attacks against public property. The Committee would appreciate it if Venezuela would elaborate on the procedures and legal provisions that regulate extradition and cooperation with other States in criminal matters.**

The issue of extradition is dealt with in the Organic Code of Criminal Procedure. Consequently, the country does not need a special law for it, as recommended by the Committee. Since a procedure exists, we do not wish to make it redundant by creating new laws.

Once again, it should be emphasized that the connection that some countries have been making between international terrorism and transnational organized crime exists only in specific situations, since the two are distinct phenomena.

In the Bolivarian Republic of Venezuela, in accordance with article 391 of the Organic Code of Criminal Procedure, the extradition procedure is regulated by the Code and by the international agreements signed and ratified by Venezuela.

Article 392 of the Code, which refers to active extradition, establishes that, when information is received that a person who has been charged by the Public Prosecutor's Office and in respect of whom the examining magistrate has ordered pretrial detention is in a foreign country, the examining magistrate shall request the Criminal Appeals Chamber of the Supreme Court of Justice to process the extradition of the person, forwarding to the Court a copy of the case file of the legal proceedings on which the request is based.

In addition, it establishes that, if a person serving a sentence escapes, the proceedings before the Supreme Court of Justice shall be heard by the executing judge.

In both cases, subject to the opinion of the Public Prosecutor's Office, the Supreme Court of Justice shall have 30 days from receipt of the documentation to decide whether it is appropriate to request extradition. If the Court decides it is

appropriate, the national executive branch, through the Ministry of Foreign Affairs, shall submit the extradition request to the foreign country where the person in question is situated within a maximum of 60 days. To this end, it shall effect the required certifications and translations, pursuant to article 393 of the Organic Code of Criminal Procedure.

According to article 394 of the Code, the national executive branch may ask the requested country to place the person concerned in pretrial detention and to confiscate objects related to the crime. In this case, the extradition request must be made within the period established in the applicable international treaties or provisions of international law.

In the case of passive extradition, article 395 of the Organic Code of Criminal Procedure establishes that, when a foreign Government requests the extradition of a person who is on Venezuelan territory, the executive branch shall forward the request to the Supreme Court of Justice with the required documentation. If the request is submitted without the necessary documentation but with an offer to produce it subsequently and a request that the person in question be detained in the meantime, the examining court may, at the request of the Public Prosecutor's Office and depending on the seriousness and urgency of the case, order the detention of that person and shall determine a fixed period for the submission of the documents, which may not exceed a continuous period of 60 days, pursuant to article 396 of the Code.

Under article 397, if this period expires before the documentation has been submitted, the Supreme Court of Justice shall order the release of the detainee, but with the possibility of reordering detention if the documentation is received at a later date. In addition, article 398 establishes the possibility of foreign Governments appointing a lawyer to defend their interests in such proceedings.

Lastly, the Supreme Court of Justice shall convene a hearing within 30 days of notification of the request, which shall be attended by the representative of the Public Prosecutor's Office, the accused, his or her defence counsel and the representative of the requesting Government, who shall present their cases. When the hearing has concluded, the Supreme Court of Justice shall issue a ruling within 15 days, as stipulated in article 399 of the Organic Code of Criminal Procedure.

It should be emphasized that, on 14 August 2001, the Bolivarian Republic of Venezuela became a party to the United Nations Convention against Transnational Organized Crime, which was signed at Palermo, Italy, on 15 December 2000. The act adopting the Convention was published in Official Gazette No. 37,357 of 4 January 2002.

In addition, the Organic Act against Organized Crime was adopted on 31 August 2005 and published in Special Official Gazette No. 5,789 of 26 October 2005. The Act contains provisions on the crimes of illicit trafficking in metals, precious stones and strategic materials, money-laundering, forming an association for the commission of crimes, terrorism, arms trafficking, illegal genetic manipulation, illegal trafficking in human organs, carrying out an assassination for payment, obstruction of the administration of justice, pornography and obstruction of free trade.

Furthermore, as already mentioned, the following are considered organized crime offences under article 16, paragraph 1, of the Act: the sale of, trafficking and trade in and other activities related to narcotic drugs and psychotropic substances and the raw materials and derivatives that can be diverted and used for their

production; the illicit import, export and manufacture of and trade in arms and explosives; fraud and fraudulent practices; banking and financial crimes; robbery and theft; corruption and other crimes against the public interest; environmental crimes; the theft or robbery of or trafficking in vehicles, ships or aircraft; smuggling and other customs- and tax-related crimes; the counterfeiting of currency or public credit instruments; trafficking in persons or migrants; illegal deprivation of individual liberty; and abduction and extortion.

In addition, article 31 of the Act establishes a jurisdictional regime for the prosecution of any Venezuelan or foreigner who commits, in a foreign country, any of the crimes defined in the Act that run counter to the national integrity or security interests of the Bolivarian Republic of Venezuela.

Article 59 et seq. of the Organic Act against Organized Crime establish international cooperation and mutual assistance mechanisms. With regard to penalties for the illegal acquisition, possession, import and export of arms, ammunition and explosives, the said articles establish guidelines to be followed by Venezuela in order to suppress organized crime and dismantle organized criminal groups where the scope of their activities is of a transnational nature, and also mechanisms to be adopted internally in order to provide mutual legal assistance in investigations, trials and legal proceedings relating to the crimes defined in this Act, when such assistance is requested by another State pursuant to the principles of international law and the treaties duly signed and ratified by Venezuela. Mechanisms for cooperation and training for the safety and security of people and operations, for seizure or confiscation, identification and detection, sequestration and attachment are also established in the Organic Act against Organized Crime.

With regard to Venezuelan requirements on the admissibility of extradition, it should be noted that, under article 69 of the Constitution, the extradition of Venezuelan nationals is prohibited; this is the principle of non-extradition of nationals. Nevertheless, under article 6, paragraph 1, of the Venezuelan Penal Code that is in force, a Venezuelan citizen whose extradition has been requested shall, at the request of the aggrieved party or of the Public Prosecutor's Office, be prosecuted in Venezuela if the crime of which he or she is accused is punishable under Venezuelan law; this is the principle of dual criminality. This article also stipulates that the extradition of a foreigner may not be granted for political crimes or for offences related to such crimes, or for any act that is not classified as a crime under Venezuelan law.

The extradition of a foreign national for ordinary offences may be granted only by the competent authority, in accordance with the procedures and requirements established for this purpose by the international treaties that have been signed by Venezuela and are in force and, in the absence of such treaties, by Venezuelan laws. Moreover, the extradition of a foreigner shall not be granted if he or she is accused of a crime that is punishable by the death penalty or life imprisonment under the legislation of the requesting country.

The above provisions are consistent with article 44, paragraph 3, of the 1999 Constitution, which provides that personal liberty is inviolable and, consequently, penalties may not be excessive. Accordingly, no life sentences or infamous penalties shall be imposed; sentences shall not exceed 30 years' imprisonment. Article 94 of the Penal Code stipulates that penalties of imprisonment imposed by law may not, under any circumstances, exceed the maximum term of 30 years.

1.8 The Committee would appreciate it if Venezuela would explain what measures have been taken to prevent the counterfeiting, forgery or fraudulent use of identity papers and travel documents (as distinct from the punishment of persons who commit these acts).

The Venezuelan Penal Code, which was partially revised and published in Special Official Gazette No. 5,768 of 13 April 2005, has three chapters on penalties for this type of crime. The first is Chapter II, which refers to the counterfeiting of seals, revenue stamps and trademarks, with penalties of 3 to 30 months' imprisonment; the second is Chapter III, which refers to the forgery of official records and documents, with penalties of 6 months' to 12 years' imprisonment; and the third is Chapter IV, which refers to the forgery of passports, licences, certificates and other similar official documents, with penalties of 15 days' to 18 months' imprisonment.

In addition, articles 55 and 59 of the Special Law on Migration and Aliens, published in Official Gazette No. 37,944 of 24 May 2004, establish penalties for the forgery and fraudulent use of identity papers, as follows:

Article 55. Illegal immigration. The illegal immigration of foreigners into the territory of Venezuela shall be punishable by imprisonment for a term of four to eight years.

Article 59. Any public official or police or military authority that in any way encourages or brings about, by act or omission, the entry into or departure from the territory of Venezuela of any person, in a clandestine manner or by means of fraud with regard to the migration control procedure established by Venezuelan law, shall be punished by imprisonment for a term of four to eight years and may not hold any position in the public administration for a period of 10 years.

In addition, the Organic Act on Identification, adopted by the National Assembly on 6 April 2006, provides for other penalties to combat counterfeiting and the fraudulent use of identity papers. Thus, articles 42, 43, 44 and 45 establish the following:

Counterfeiting and forgery

Article 42. Any person who grants or facilitates the provision of a hospital birth card, birth certificate, identity card, passport or any other identity paper without fulfilling the requirements legally established in the regulations of the Act, or in contravention or disregard of the relevant administrative procedure, shall be punished by imprisonment for a term of two to six years.

Forged documents

Article 43. Any person who possesses, carries or makes use of a hospital birth card, birth certificate, identity card, passport or any other identity paper containing false or forged information shall be punished by imprisonment for a term of two to six years.

Certification of forged identity papers

Article 44. Any official who, with wrongful intent, certifies any identity paper in whole or in part, in the knowledge that the information contained therein is false, shall be punished by imprisonment for a term of four to eight years.

If the offence is committed through negligence, inexperience or failure to comply with norms and regulations, the punishment shall be imprisonment for a term of four years, without prejudice to disqualification from holding public office.

Usurpation of identity or nationality

Article 45. Any person who obtains or tries to obtain a birth certificate, identity card or passport by providing false information or by presenting counterfeits or forgeries of documents belonging to another person, claiming an identity or nationality different from his or her real identity or nationality shall be punished by imprisonment for a term of two to six years.

From the above provisions it can be seen that the Bolivarian Republic of Venezuela has sufficient legal instruments to prevent and punish the counterfeiting and fraudulent use of identity papers and travel documents.

In addition to the existing legal provisions, the Ministry of the Interior and Justice, through the General Identification and Aliens' Directorate, has been implementing a series of measures to prevent the fraudulent use of identity papers and travel documents, using highly secure and reliable instruments which comply with the international treaties and conventions signed and ratified by the Bolivarian Republic of Venezuela. Furthermore, the issuing of passports has been centralized in order to ensure uniformity and greater control of the procedure. Work is also under way on the digitization of fingerprints in reference files and in the Automated Fingerprint Identification System, which is an ongoing programme for automated verification of fingerprints that will make it possible to rely less on the discretion of officials in the process of approving documents.

1.9 Venezuela's fourth report to the Committee included an annex of the report to the Inter-American Committee against Terrorism (CICTE). The Committee would appreciate it if Venezuela would elaborate on the actions taken as outlined in paragraph 7 (at page 10) of the aforementioned report to CICTE.

In relation to the action outlined in section 7 (page 10) of the annex containing the report to CICTE, SENIAT has, through its different directorates, implemented the measures set out below.

With regard to border controls and customs-related measures, the Tariff Office of the National Customs Administration has taken action to control the entry of goods and coordinates work on tariff policy to improve the application of the existing customs regime. Decisions on whether particular items may be subject to any restriction must be based on the legal regime set out in article 12 of Decree No. 3,679 of 30 May 2005, published in Special Official Gazette No. 5,774 of 28 June 2005, in which the following Customs Tariff was promulgated:

1. Importation prohibited
2. Importation reserved to the national executive branch
3. Permit from the Ministry of Health
4. Permit from the Ministry of Light Industries and Trade
5. Health certificate from the country of origin
6. Health certificate from the Ministry of Agriculture and Land

7. Permit from the Ministry of Defence

8. Import licences administered by the Ministry of Food

9. Import licences administered by the Ministry of Light Industries and Trade

10. Permit from the Ministry of the Environment and Natural Resources

11. Permit from the Ministry of Energy and Petroleum

12. Health registration issued by the Ministry of Health

13. Health registration issued by the Ministry of Agriculture and Land

14. Permit from the Ministry of Food

15. Permit from the Ministry of Basic Industries and Mining.

The above categories are divided into 2,594 subheadings, governed by the legal regimes in question, which set out what goods or objects should be classified under the tariff codes, without prejudice to goods controlled under the non-codified legal regimes set out in the body of the Customs Tariff.

The Customs Control Office, in conjunction with the Customs Development and Innovation Office, is considering using the subsidiary units attached to the Main Customs Office in Puerto Ayacucho as strategic points to help control the transit of goods through high-impact border areas. This would be a strategic policy, without prejudice to other actions being taken, such as:

1. Participation in the technical committee that is reviewing the preliminary draft of the Smuggling Act with a view to providing a legal basis for border control action, as defined in article 12, paragraph 3, of the preliminary draft Act;

2. Information-gathering;

3. Customs offices at strategic points;

4. Night operations in areas where there is considered to be a high risk of trafficking in illicit goods;

5. Physical and documentary verification of goods outside the principal areas of jurisdiction of the authorized customs offices.

In addition, the Value Assessment Office has taken part in discussions on the border transit regime for goods, in order to establish uniform criteria. Benchmark price circulars have also been drawn up, giving guidance on the correct application of the laws and regulations in force concerning customs values and the exchange of information with public and private entities.

Regarding the competence of the Tariff Office of the National Customs Administration in relation to border controls, the SENIAT fiscal portal has been chosen as a means of disseminating information. It is used to publish, in Spanish, all information relating to international agreements, the Customs Tariff and resolutions amending it, circulars, tariff classifications and other laws and regulations essential for customs management. In addition, through the "Contact people" option on the web page, officials aim to respond immediately to requests for information.

The Customs Control Office conducts training activities for its officials on an ongoing basis to update them on the legal regulations in force, as a means of

capacity-building in the areas of revenue intelligence, risk analysis and the detection of illicit goods. Every year, the Value Assessment Office takes part in training and technical assistance courses relating to customs values.

The Customs Control Office enters information into the database of the Regional Intelligence Liaison Office system, where information is exchanged with other member countries of the World Customs Organization in order to combat customs offences and, hence, the smuggling of weapons, explosives and dangerous materials.

Any application of the customs policy guidelines has a direct effect on customs control activities, the legal framework for which is based on the recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods, which were formulated in 1957 and are updated every two years; the pertinent recommendations, declarations, instruments and regulations adopted within the United Nations system; and the work and studies carried out by other international and regional organizations, which are referred to in the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. In addition, Title III of the current Venezuelan Customs Tariff, on Restrictions and other Legal Requirements, establishes other mandatory requirements for specific goods and also prohibits the circulation within Venezuela of pathological and hazardous waste and the import and transit of persistent organic pollutants and nuclear, chemical and biological weapons. The same prohibitions and/or restrictions, as appropriate, apply to goods that violate intellectual property rights, pornographic material, narcotic drugs and psychotropic substances, and substances that are considered to be precursors or essential chemicals for the production of drugs. There are also restrictions on the import and transit of coins and notes that are legal tender in Venezuela or abroad, and of gold and its alloys, melted down or in the form of coins, bars or dust, which are subject to regulations established by the Central Bank of Venezuela, in accordance with the laws in force. This results in improved control at goods entry points and the protection of national sovereignty, helping to prevent acts or omissions that could adversely affect the well-being of society.

The Customs Control Office is in constant communication with State entities and agencies such as the Ministry of Energy and Petroleum, the Ministry of Basic Industries and Mining, the Ministry of the Environment, the National Identification and Aliens Office (ONIDEX), the Currency Administration Commission (CADIVI), the National Commission against Illicit Drug Use (CONACUID), the Venezuelan Institute for Scientific Research, the Venezuelan Fund for Industrial and Technological Restructuring (FONDOIN) and the Anti-Drug Command of the National Guard, in order to help combat customs fraud, money-laundering, illicit arms trafficking and the movement of nuclear, chemical, biological and other potentially lethal materials.

The Customs Control Office and the Tariff Office play an active role in the Ecological Management Committee, whose objectives include the training of SENIAT officials in the use, storage, transport and safe management of dangerous chemicals and toxic materials, and the elaboration of a legal framework for the units that may have responsibilities in this area, within the structure of one of the main customs offices.

The attributes of the Tariff Office are established in article 14, paragraphs 3, 4, 13, 14, 17 and 18, of Administrative Decision No. SNAT/2005/0864 of 23 September 2005 concerning the organization, attributes and functions of the National Customs

Administration. Other instruments governing customs and tariff matters include the following: the recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods, which were formulated in 1957 and are updated every two years; the pertinent recommendations, declarations, instruments and regulations adopted within the United Nations system; the work and studies carried out by other international and regional organizations, which are referred to in the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; the third amendment to the harmonized system contained in Decree No. 3,679 of 30 May 2005, which relates to the Customs Tariff in force and is the trade policy instrument whose legal framework helps determine the legal regime to which specific goods may be subject and which ensures uniform application of the rules and regulations by including them in a single legal instrument; and also international agreements and resolutions amending them, circulars, tariff classifications and other laws and regulations essential for customs management. Information on all of the above is available to customs officials, who, through the "Contact people" option on the web page, aim to respond immediately to requests for information. As a result, the customs system is being enhanced. An additional effect of this increased efficiency is that controls are established and maintained on goods in general and, in particular, on the substances and items referred to in this regard.

The Customs Control Office is currently regulated by a substantive norm that establishes its responsibilities within the prescribed limits on administrative powers, in line with the so-called organic theory and in order to safeguard national interests. This legal basis, specifically article 25 of Administrative Decision No. SNAT/2005/0864 of 23 September 2005 concerning the organization, attributes and functions of the National Customs Administration, provides for the customs control of sensitive goods that are at high risk of customs fraud, including illicit trade in the items mentioned in paragraph 8.

Article 19 of Decree No. 3,679 of 30 May 2005, published in Special Official Gazette No. 5,774 of 28 June 2005, in which the Customs Tariff was promulgated, establishes the following:

Article 19. Without prejudice to other legal requirements and formalities, the legal regime applicable to the export of goods shall be adapted, mutatis mutandis, to the coding system established in article 12 and shall be the legal regime set out in annex II to this decree, which constitutes an integral part of the Customs Tariff.

Under on the above provisions, the legal regime applicable to imports is adapted for exports by adding and eliminating elements, as appropriate.

Regarding the competence of the Tariff Office of the National Customs Administration in relation to border controls and customs control measures, the SENIAT fiscal portal has been chosen as a means of disseminating information. It is used to publish, in Spanish, all information relating to international agreements, the Customs Tariff and resolutions amending it, circulars, tariff classifications and other laws and regulations essential for customs management. In addition, through the "Contact people" option on the web page, officials aim to respond immediately to requests for information.

When the National Customs Administration was restructured, the Risk Analysis Division was created within the Customs Control Office to manage a

database that was needed for processing, detection, analysis, control and monitoring related to presumed customs offences, and also to collaborate in establishing risk analysis criteria for incorporation into the selectivity module of the Automated System for Customs Data (ASYCUDA).

The Andean Customs Internships Programme was implemented within the framework of the cooperation agreement between the European Union and the Andean Community. Under the Programme, Venezuela received officials from the customs offices of Bolivia and Ecuador as interns and provided them with training in both theoretical and practical aspects of post-customs control, which will be passed on to the customs administrations in their own countries. Venezuela also selected representatives to undertake similar activities in the customs administrations of member countries.

The Tariff Office, Value Assessment Office and Customs Control Office have been taking part in a working group coordinated by the Customs Development and Innovation Office, which plans to develop a binational legal instrument — Brazil-Venezuela and Colombia-Venezuela — establishing specific controls for border areas. Currently, information is being gathered on the different conditions in each geographical location and on trade performance, so that, subsequently, the legal instrument can be drafted and the agencies concerned can be invited to play an active part in the process.

In the new Customs Tariff — which entered into force by means of Decree No. 3,679 of 30 May 2005, published in Official Gazette No. 5,774 of 28 June 2005 — the scope of application of article 18 was expanded in comparison with the version contained in Decree No. 989 of 20 December 1995, published in Official Gazette No. 5,039 of 9 February 1996, so as to provide more specifically for possible situations or items in the tariff universe that are now subject to the Customs Tariff, such as:

1. The national transit of bank notes and coins that are legal tender in Venezuela or abroad;

2. Gold and its alloys, melted down or in the form of coins, bars or dust.

Although the organizational structure of SENIAT has developed and adapted to the changes imposed by the dynamics of international trade and the updating of rules and regulations — both general ones and those relating to the implementation of border controls — changes are constantly occurring in customs-related matters at the global level. Experience, knowledge and information should therefore be exchanged on an ongoing basis in order to build capacity to improve the customs service, while also achieving optimum levels of efficiency in customs control at border points and in the different spheres which may be relevant to customs administration.

In addition, SUDEBAN considers it important to make the following comments on section 7, part A, of the report to CICTE, which is entitled "The financing of terrorism":

Point 1: Criminalization of the financing of terrorism and terrorist activities

Article 7 of the Organic Act against Organized Crime clearly establishes the penalty for any person who is a member of a terrorist group or who finances, carries out or collaborates in acts of terrorism.

Points 2, 3 and 4: Adoption of the 40 recommendations of the Financial Action Task Force on Money Laundering (FATF), the eight special recommendations on terrorist financing and the 19 recommendations of the Caribbean Financial Action Task Force (CFATF)

The Bolivarian Republic of Venezuela has incorporated the above-mentioned recommendations into its domestic laws and regulations, as set out below.

- Money-laundering has been defined as a crime in articles 4 and 5 of the Organic Act against Organized Crime, pursuant to the Vienna and Palermo Conventions.
- The various prudential standards issued by SUDEBAN, the Office of the Superintendent of Insurance and the National Securities Commission have established concepts and procedures for improved due diligence and the "know-your-customer" policy.
- Reports on suspicious activities cover activities linked to money-laundering, the financing of terrorism and organized crime.
- Agencies such as SUDEBAN, the Office of the Superintendent of Insurance and the National Securities Commission play an active role with reporting entities in surveillance, regulation and monitoring with regard to money-laundering and the financing of terrorism.
- The National Financial Intelligence Unit has been established, pursuant to article 226 of the General Act on Banks and Other Financial Institutions.
- International cooperation is effected through the signing of memorandums of understanding with national and international organizations on the exchange of financial information and technical assistance.
- The United Nations conventions against the financing of terrorism have been ratified by means of the Act adopting the International Convention for the Suppression of Terrorist Bombings and the Act adopting the International Convention for the Suppression of the Financing of Terrorism published in Official Gazette No. 37,721 of 8 July 2003, and also the Act adopting the Inter-American Convention against Terrorism, published in Official Gazette No. 37,841 of 17 December 2003.
- As indicated above, the financing of terrorism has been defined as a crime in article 7 of the Organic Act against Organized Crime.
- Alternative remittance systems are not permitted in the Bolivarian Republic of Venezuela.
- Currency transfers to and from other countries through the national banking system comply satisfactorily with the know-your-customer policy.
- Special attention is paid to non-profit organizations in terms of the internal controls that financial institutions must adopt to detect and prevent the use of such organizations for terrorist activities and the financing thereof.

Point 5: Establishment of a national financial intelligence unit

Article 226 of the General Act on Banks and Other Financial Institutions establishes the attributes and functions of the National Financial Intelligence Unit.

Point 6: Extension of banking controls to non-banking enterprises

The sphere of competence of SUDEBAN includes not only banking institutions, but also non-financial* institutions, such as money-market funds, currency exchange bureaux, financial lessors and border currency exchange operators.

Point 7: Establishment of procedures for the disclosure of banking secrets

Article 51 of the Organic Act against Organized Crime establishes that banking secrecy, confidentiality, any privacy standards that may be in force and practices related to these concepts may not be invoked or cited for the purpose of avoiding civil, commercial or criminal proceedings.

In this regard, article 252 of the Decree-Law amending the General Act on Banks and Other Financial Institutions provides that banking secrecy and confidentiality may not be invoked when requests for information are made by SUDEBAN in the exercise of its functions.

Regarding section 7, part B, of the report submitted to CICTE, which is entitled "Border controls", the Legal Advice Unit of ONIDEX considers it relevant to make the observations set out below.

In relation to point 7.B.1 of the report, which refers to measures taken by the Government to improve the security of travel documents, a new Venezuelan passport was introduced in 2003, which, for the first time, had the name "Bolivarian Republic of Venezuela" printed on it. Other security elements were also incorporated such as banknote paper, which is impossible to counterfeit, and a bar code for optical scanning.

Since 12 December 2005, new passports have been issued with "Andean Community" stamped at the top and "Bolivarian Republic of Venezuela" immediately below. In addition to being made of banknote paper, these passports include a number of security elements to make them difficult to counterfeit. Another important aspect of security is that digital methods are used to complete the document, thus eliminating the obsolete system of manual procedures that made counterfeiting and forgery easier.

With regard to point 7.B.2, which refers to improvements to national identity and travel documents, in accordance with minimum international security standards, the Ministry of the Interior and Justice, through the General Identification and Aliens Directorate, introduced a new identity card in 2004 for Venezuelans and foreigners resident in Venezuela, which is also made of banknote paper.

Likewise, passport quality has been improved substantially in recent years, as shown by the comment on point 7.B.1 above; passports now comply with the requirements established by the International Civil Aviation Organization regarding dimensions and other features.

Regarding travel, it should also be noted that, under Decree No. 3,743, which was published in Official Gazette No. 38,224 of 8 July 2005 and establishes the Regulations on the Andean Migration Card, the Bolivarian Republic of Venezuela

* *Translator's note*: The intended meaning here appears to be "non-banking institutions" rather than "non-financial institutions".

introduced a new single migration card, through which information will be obtained on persons who enter or leave the country via the officially authorized airports, ports and border posts.

The single migration card contains the following information in Spanish and English (each piece of information is preceded by a number or code, to identify it):

Space for the entry or departure stamp

1. Identity card number
2. Type of document (passport or other)
3. Surnames
4. First names
5. Address in Venezuela
6. Date of birth
7. Country of residence
8. Nationality
9. Indication of whether the traveller comes from an Andean Community country
10. Occupation
11. Sex
12. Type of visa
13. Date of issue
14. Place of issue
15. Duration of visit
16. Date of entry
17. Date of departure
18. Reason for visit
19. Country of origin
20. Country of destination
21. Means of transport
22. Carrier (entry)
23. Flight number (entry)
24. Carrier (departure)
25. Flight number (departure).

The Government also plans to introduce a new identity card system in the first half of 2007, which will include a new card made of a resistant plastic material, similar to a credit card, incorporating a chip that will contain information on the cardholder, including blood type and police record.

With regard to point 7.B.3, which refers to improvements to border control at all entry points, there are currently 9 airports, 11 ports and 18 border posts where migration control is exercised. Maiquetía International Airport, which serves the city of Caracas, has introduced a pilot project for automated migration control, connected directly to the central office of the General Identification and Aliens Directorate of the Ministry of the Interior and Justice. At the other terminals for entry into the country, work is currently under way to install a communications network to guarantee improved security conditions and increased migration control.

2. Assistance and guidance

2.1 The Committee wishes to emphasize once more the importance that it attaches to the provision of assistance and advice in connection with the implementation of the resolution. The Committee's Directory of Assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance. The Committee takes note of the technical assistance requested by Venezuela in its first report (at page 9) and is pleased to inform Venezuela that its requested assistance has been brought to the attention of potential technical assistance providers through the Committee Matrix.

In general, it has been concluded that Venezuela does not need the technical assistance requested in the first report, because we do not consider that terrorism exists in the region. DARFA has stated that criminal acts occur in our country, as in any other, but no manifestations of terrorism have been confirmed.

Regarding paragraph 3, DARFA is developing a weapons database for ongoing monitoring of the entry of weapons into national territory and their movement within it. Furthermore, DARFA's weapons destruction procedure is now being conducted publicly, in the presence of international representatives and observers.

SENIAT has emphasized the importance of an agreement which, it is hoped, will soon be signed with the General Directorate for Atomic Energy of the Ministry of Energy and Petroleum on the training of SENIAT staff in handling materials of nuclear origin and in detecting them at national customs, as indicated in more detail under question 1.3 above.

The General Directorate for Atomic Energy of the Ministry of Energy and Petroleum has stated that, owing to the sensitive and specialized nature of activities relating to radioactive material, these issues and their implications are dealt with solely through IAEA.

In general, we consider that the technical assistance requested in the first report submitted to the Committee by the Bolivarian Republic of Venezuela is no longer relevant, particularly with regard to the following areas:

- Drafting legislation specifically criminalizing the collection of funds with the intention of using them for terrorist acts;
- Introducing measures aimed at freezing funds intended for the financing of terrorism;
- Regulation of charitable and non-profit organizations;

- Legal and administrative measures necessary to ensure the implementation of the International Convention for the Suppression of Terrorist Bombings;
- Becoming a party to and fully implementing those international conventions to which Venezuela is not yet a party.

The assistance previously requested is no longer needed because it would be basically of a legislative nature. The National Assembly has already adopted at first reading the draft Special Law against Terrorist Acts, and possible amendments are currently being considered for submission at the second reading before the Assembly's Committee on Domestic Policy, Justice, Human Rights and Constitutional Guarantees. In addition, as mentioned several times in this report, the recently promulgated Organic Act against Organized Crime covers some of the issues that might at one time have been the subject of a request for external technical assistance.